CASE PROCESSING STANDARDS ANALYSIS FAMILY LAW - POST-JUDGMENT MOTIONS

National Center for State Courts Model Time Standards for Post-Judgment Motions:

98% within 180 days (6 months)

Measurement: Measurement is the date of filing a post-decree or post-judgment petition to the date of disposition by entry of judgment or order.

Arizona Family Law - Post-Judgment Motions

The Arizona Case Processing Standards Steering Committee recommends that Arizona adopt a different standard:

50% within 180 days 90% within 270 days 98% within 365 days

Measurement: The date of filing a post-decree or post-judgment petition to the date of disposition

by entry of judgment or order.

The following stay of proceedings will be excluded from the measurement:

Servicemembers Civil Relief Act and pending juvenile cases.

Arizona Rules and	Timelines under Statute and Rule
Statutes	
Motions Filed:	(Measurement Starts Here)
Rule 91(B), ARFLP	Petitions for Modification and Enforcement of Spousal
Rule 91(L), ARFLP	Maintenance or Child Support, Relocate or Prevent Relocation,
Rule 91(C), ARFLP	<u>Modification and Clarification of Parenting Time or Visitation –</u>
Rule 91(E), ARFLP	Time for Service: Moving party to serve documents and the issued
	Order to Appear on opposing party at least 10 days prior to the
	scheduled conference or hearing, unless another specific time is
	ordered by the court.
Rule 91(M), ARFLP	Responses: Time for Response: All responses and affidavits required
	to be filed shall be filed and served within 10 days after service of the
	petition on the party but in no event less than 3 judicial days prior to
	the scheduled hearing, unless another specific time is ordered by the
	court.
Rule 91(D), ARFLP	Detition to Modify Child Cystody (will shange to Local Design
Rule 91(D), ARI LF	Petition to Modify Child Custody (will change to Legal Decision- Making terminology, effective January 1, 2012): No hearing shall
	be set unless compliance with A.R.S. § 25-411. No sooner than 5 days
	after expiration of the time permitted for filing of the response or
	controverting affidavits, either party shall provide the Request for
	Order Granting or Denying Custody Hearing to the assigned division.
	Court will determine whether a custody hearing should be granted. If
	so the court shall schedule a RMC or evidentiary hearing.
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Service of Process:	No Comica Diamiggal, Action diamiggad without made direct
Rule 40(I), ARFLP ¹	No Service- Dismissal: Action dismissed without prejudice if

¹ Arizona Rules of Family Law Procedure

Arizona Rules and Statutes	Timelines under Statute and Rule
	summons and complaint not served upon defendant within 120 days of filing of complaint.
Rule 40(F), ARFLP	Service; Acceptance or Waiver; Voluntary Appearance: Waiver, acceptance or appearance has the same force and effect as if a summons had been issued and served. Filing of a responsive pleading constitutes an appearance.
Rule 32(A), ARFLP	Service in Arizona: If defendant served in Arizona, the answer must be filed within 20 days from date of service. Personal service is required for issues requiring personal jurisdiction over the parties, i.e., paternity, child support, spousal maintenance, division of marital property.
Rule 42(C) and (J), ARFLP	Out-of-State Service: If defendant personally served outside of state, must file answer within 30 days from completion of service. If by registered mail 30 days after date on return receipt.
Rules 41(M) and 42(D), ARFLP	Service by Publication: Answer is due 50 days from date of first publication if within Arizona or 60 days if out of state.
Servicemembers protections: Sec. 201 [50 U.S.C. App. 521]	Servicemembers Civil Relief Act ² Protection of servicemembers against default judgments: This provision applies to any civil action or proceeding in which the defendant (respondent) does not make an appearance. The court must grant a stay of proceedings for a minimum period of 90 days upon application of counsel or on the court's own motion if the court determines that: 1) there may be a defense to the action and a defense cannot be presented without the presence of the defendant (respondent), and 2) after due diligence, counsel has been unable to contact the defendant (respondent) or otherwise determine if a meritorious defense exists.
Sec. 202 [50 U.S.C. App. 522]	Stay of proceedings when servicemember has notice: This provision applies to any civil action or proceeding in which the plaintiff or defendant (respondent) at the time of filing is in the military or is within 90 days after termination of or release from military service; and has received notice of the action or proceeding. The court may on its own motion and shall, upon application by the servicemember, stay the action for a period of not less than 90 days, if conditions are met. (Conditions include a letter from servicemember and commanding officer indicating military duty requirements materially affecting the servicemember's ability to appear, date when available to appear and that military leave is not authorized for the servicemember at the time of the letter.) The servicemember may also

² SCRA (As amended through February 1, 2006) Public Law 108-189 (enacted December 19, 2003: 117 Stat.2835) restated, clarified, and revised this Act as then in existence. 50 U.S.C. App. §§ 521, 522 and 524

Arizona Rules and Statutes	Timelines under Statute and Rule
	apply for an additional stay based on continuing material affect of military duty on the servicemember's ability to appear.
Sec. 204 [50 U.S.C. App. 524]	Stay or vacation of execution of judgments, attachments, and garnishments: If servicemember is materially affected by reason of military service in complying with a court judgment or order, the court may on its own motion and shall on application by the servicemember 1) stay the execution of any judgment or order entered against servicemember; and 2) vacate or stay an attachment or garnishment of property, money, or debts in possession of the servicemember whether before or after judgment.
A.R.S. § 25-411(B) and (I)	Modification of custody decree; affidavit; contents; military families: In cases where a parent with whom the parent's child resides majority of the time receives temporary duty, deployment or mobilization orders that requires moving a substantial distance away from the parent's residence, the court shall not enter a final order modifying parental rights and responsibilities and parent-child contact in an existing order until 90 days after deployment ends, unless a modification is agreed to by the deploying parent.
Discovery and Disclosure: Rule 49, ARFLP	<u>Disclosure</u> : In modification and enforcement proceedings, required documentation and information shall be served in such a manner as to assure their receipt as soon as possible after the initiation of proceedings, but in no event less than 3 judicial days prior to the scheduled hearing.
Rule 91(R), ARFLP	Dismissal of Petition for Lack of Prosecution: 120 days after filing a petition, the court may issue a notice that the matter will be dismissed by the court in not less than 60 days without further notice unless service is completed and further hearing is requested. If a petition to enforce or modify a prior family court decree, judgment or order is filed but not presented in proper form within 1 year after filing or is otherwise abandoned, the court may dismiss the petition without prejudice and without further notice.
Mediation: Rule 91(O), ARFLP	The court may require that the parties submit to mediation before any issues of custody, parenting time or visitation may be heard. (Measurement Stops When Judgment or Order Entered)